IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

CRP.No. 1033 of 2006()

AGAINST THE ORDER DATED 04/10/2005 IN EP 57/06 IN OS.135/2005 of MUNSIFF COURT,ALUVA

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REVN. PETITIONER: PETITIONERS/JUDGEMENT DEBTORS

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1. K.P.VARGHESE, AGED 45,
   S/O.PAULOSE, KOORANTHAZHATH PARAMBIL,
   PEECHANIKKAD, ANGAMALY.

2. I.T.MATHAI, AGED 63,
   S/O.THARIYATH, INCHAKADAN HOUSE,
   ANKAMALY.

BY ADV. SRI.MATHEWS K.PHILIP

RESPONDENTS: DECREE HOLDER

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1. THE CATHOLIC SYRIAN BANK LTD.,
   THRISSUR, REP. BY ITS SENIOR MANAGER OF ANKAMALY BRANCH.

2. I.M.ALIYAR, S/O.MATHAI INCHAKKADAN HOUSE
   PEECHANIKKAD, ANKAMALY.

BY //

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 19/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.NO.3641/06 IN CRP 1033/06

DISMISSED

19/12/2006

SD/-M.SASIDHARAN NAMBIAR,JUDGE.

//True copy//

PA to Judge.

M.SASIDHARAN NAMBIAR,J.

C.R.P .NO. 1033 OF 2006

Dated 19th December 2006

O R D E R

Petitioners are judgment debtors 2 and 3 in O.S.135/05 on the file of Munsiff court, Aluva. They are challenging order of arrest passed by executing court in E.P.57/06. Order dated 4/11/2006, shows that third respondent was absent as the counsel reported no instructions. Executing court being satisfied on the sufficiency of the means of third judgment debtor, order of arrest was passed holding that he is liable to be arrested. As far as second judgment debtor is concerned he did not even raise a plea of no means and learned Munsiff passed an order of arrest. This revision petition is filed by them jointly.

2. Learned counsel appearing for petitioners was heard.

3. As far as second judgment debtor is concerned, he has no case that he is not having sufficient means to pay the decree debt. In such

circumstances, no interference warranted as against the order of arrest of second judgment debtor.

4. As far as third judgment debtor, his case is that junior of the learned counsel had in fact represented the third judgment debtor, but learned Munsiff did not consider the representation. If that be so, petitioner is at liberty to apply before the learned Munsiff, to set aside the order as against him. If such an application is filed, executing court to pass appropriate order in accordance with law, after finding out whether third judgment debtor is having sufficient means to pay the decree debt.

Revision petition is disposed of.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.